

**CITY OF MANZANITA  
STAFF REPORT**

**Application:** Final Subdivision Plat Phase 2 in Highlands 2  
**Location:** Classic Street and Nearney City Road  
**Assessor's Map:** 3N-10-29D, part of Tax Lot 100  
**Applicant:** Encore Investments, LLC (Jim Pentz and Rick Hinkes)  
**Owner:** Same as applicant  
**Zoning:** SR-R (Special Residential/Recreational)  
**Criteria:** This application will be evaluated against the criteria for final Subdivision Plat listed in Sections 14 through 23 of Ordinance 95-5 (Manzanita Subdivision and Land Partitioning Ordinance)  
**Date:** February 16, 2021

STAFF REPORT

1. Applicant Encore Investments submitted an application and required application fee on January 15, 2021 for the above-mentioned final subdivision plat. A copy of this application is included as Exhibit A of this report. The applicant addressed the criteria on the Tentative Plan.
2. Applicant wishes to plat Phase 2 of Highlands Subdivision consisting of 13 residential building lots completing the 29 lot Subdivision.
3. The sole purpose of final plat review is to determine if that plat conforms to the preliminary plat as approved by the Planning Commission, complies with the details required for a final plat, and addresses any conditions of approval for the approval of the preliminary plat. It is not an opportunity to review the design of the subdivision as all those issues are rightly addressed in the preliminary plan approval process.
4. The subject property is wholly within the City limits of Manzanita and wholly within the SR-R (Special Residential/Recreational) zone. The regulations for the SR-R zone are described in Section 3.030 of Ordinance 95-4.
5. Sections 14 through 23 Subdivision Plat of Manzanita Zoning Ordinance 95-5

*SECTION 14 - SUBMISSION OF SUBDIVISION PLAT*

*Within one year after approval of the tentative plan, the subdivider shall cause the proposed subdivision, or any part thereof, to be surveyed and a plat thereof prepared in conformance with the tentative plan as approved or conditionally approved. An original reproducible drawing and five (5) blue-line or blackline prints of the plat shall be submitted to the City Manager within one year after approval or conditional approval. The tracing and prints are in addition to those required by Oregon statutes. If the subdivider wishes to proceed with the subdivision after the expiration of the one-year period following the approval of the tentative plan, he or she must request an extension of the tentative plan approval from the Planning Commission. The*

*Planning Commission may grant a one-year extension where it finds conditions have not changed from the time of the initial approval.*

**Findings:** This criterion has been met.

*SECTION 15 - FORM OF PLAT*

*The subdivision plat shall be prepared in accordance with the provisions of this ordinance and state laws, including but not limited to ORS 92.080. All tracings required shall be in accordance with the state standards, including but not limited to ORS 92.120.*

**Findings:** This criterion has been met.

*SECTION 16 - INFORMATION ON FINAL PLAT*

- 1. The name of the subdivision, the date the plat was prepared, the scale, north point, legend and existing features such as highways and streets.*
- 2. Legal description of the subdivision boundaries.*
- 3. Reference and bearings, to adjoining surveys.*
- 4. The locations and descriptions of all monuments found, or set shall be carefully recorded upon all plats and the property courses and instances of all boundary lines shall be shown.*
- 5. Exact location and width of streets and easements intersecting the boundary of the subdivision.*
- 6. Subdivision block and lot boundary lines.  
Numbering of lots and blocks as follows:
  - a. Lot numbers beginning with the number "1" and numbered consecutively in each block. Number sequence to generally follow the same system as sections are numbered in a township.*
  - b. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed not to obliterate any figure, block and lot numbers, in addition to a subdivision of the same name, shall be a continuation of the numbering in the original subdivision.**
- 7. Acreage of each parcel.*
- 8. Street right-of-way center lines with dimensions to the nearest 1/100th of a foot, bearings or deflection angles, radii, arc, points of curvature, chord bearings and distances, and tangent bearings. Subdivision boundaries, lot boundaries, and street bearings shall be shown to the nearest 30 seconds.*
- 9. The name and width of the streets being dedicated, the width of any existing right-of-way, and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.*
- 10. Easements denoted by fine dotted lines, clearly identified and, if already of record, their*

*recorded reference. If an easement is not of record, there shall be written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.*

*11. Locations and widths of drainage channels, railroad rights-of-ways, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the subdivision.*

*12. Parcels to be dedicated shall be distinguished from lots intended for sale with acreage and alphabetical symbols for each parcel indicated.*

*13. Any conditions specified by the City upon granting preliminary approval.*

*14. A statement of water rights noted on the subdivision plat.*

*15. Location of any dedicated open space or protected wetlands.*

**Findings:** This criterion has been met.

#### SECTION 17 - CERTIFICATIONS

*The following certificates shall appear on the plat as submitted. The certificates may be combined where appropriate.*

*1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and the recording of the plat.*

*2. A certificate signed and acknowledged as above, offering for dedication all parcels of land shown on the final plat and intended for any public use except those parcels other than streets, which are intended for the exclusive use of the lot owners in the subdivision, their licenses, visitors, tenants, and servants.*

*3. A certificate signed and acknowledged by the engineer or surveyor responsible for the survey and plat, the signature of such engineer or surveyor, to be accompanied by his seal.*

*4. Provisions for additional certificates and acknowledgements required by law.*

**Findings:** This criterion has been met.

#### SECTION 18 - SUPPLEMENTAL DATA

*At the time of the submission of the final plat, the subdivider shall also submit to the following:*

*1. A preliminary title report issued not more than 30 days in advance by a recognized title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.*

*2. Sheets and drawings showing the following:*

*a. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners, donation land claim corners, if any, or triangulation systems, and showing the error of closure, if any.*

- b. The computation of all distances, angles and courses shown on the final plat.*
- c. Ties to existing monuments, proposed monuments, adjacent subdivision, street corners, and state highway stationing.*
- d. Coordinates of all block corners and all street center points.*
- e. All areas subject to flooding.*

*3. A copy of any deed restrictions applicable to the subdivision.*

*4. A list of all taxes and assessments on the tract which have become a lien on the tract.*

*5. A copy of the acknowledgement from the State Water Resources Department under ORS 97.122, if the person offering the subdivision or partition plat for filing indicates on the statement of water rights that a water right is appurtenant to the subdivision.*

**Findings:** This criterion has been met.

#### SECTION 19 - TECHNICAL REVIEW

*1. Upon receipt of the final plat and accompanying data, the staff of the City shall review the plat and pertinent documents to determine that it conforms with the approved tentative plan, and that there has been compliance with provisions of the law and of this ordinance.*

*2. The City may contract with an independent engineer or surveyor to examine the plat for compliance with City and State requirements for accuracy and completeness. He may make checks in the field to verify that the map is sufficiently correct on the ground, and he may enter the property for this purpose. If he determines that there has not been full conformity, he shall advise the City Manager of the changes or additions that must be made and afford the subdivider an opportunity to make such changes or additions.*

*3. If the engineer or surveyor determines that full conformity has been made, he shall so certify and transmit the plat to the Planning Commission.*

**Findings:** Staff has reviewed the plat and pertinent documents and determined it conforms with the approved tentative plat.

#### SECTION 20 - FINAL APPROVAL OF PLANNING COMMISSION

*The Planning Commission shall examine the plat to determine whether it conforms with the tentative plan and with all changes permitted and all requirements imposed as a condition of its acceptance. If the Planning Commission does not approve the plat, it shall advise the subdivider of the changes or additions that must be made for this purpose, and shall afford him an opportunity to make the same. If the Planning Commission determines that the plat conforms to all requirements, it shall approve the same, but before certifying its approval thereon, it shall require the subdivider to file the agreement and bond, or make the deposit, required in Sections 21 and 22, and when the agreement and bond have been filed and approved as prescribed, the Planning Commission's approval shall be endorsed upon the plat by execution of the appropriate certificate as prescribed by law. The approval of the plat does not constitute or effect an acceptance by the public of the dedication of any street or other easement shown on the plat.*

**Findings:** Applicant has been made aware of the requirement to have all public facilities accepted and built or have an agreement and bond in place guarantying completion of the public improvements.. The Public Works Director will advise the Planning Commission Chair when he

is satisfied these requirements are met and only then should the Planning Commission Chair sign the final plat.

*SECTION 21 - AGREEMENT FOR IMPROVEMENTS*

*Before Planning Commission approval of a final plat, the subdivider shall either install required improvements and repair existing streets and other existing public facilities damaged in the development of the property or execute and file with the City an agreement between himself and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the land divider. The agreement shall also provide for the construction of the required improvements in units and for an extension of time under the conditions therein specified.*

**Findings:** Applicant is currently working on this in coordination with the Public Works Director. Final Paving cannot be complete at this time due to weather.

*SECTION 22 - BOND*

*1. The subdivider shall file with the agreement, to assure his full and faithful performance thereof, one of the following approved by the City Council:*

*a. A personal bond co-signed by at least one additional person who shall not be related to the subdivider. The subdivider and cosigner shall submit evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of the ability of the subdivider to proceed in accordance with the agreement.*

*b. Cash.*

*2. The assurance of full and faithful performance shall be for a sum approved by the Planning Commission sufficient to cover the cost of the improvements, engineering, inspection and incidental expenses, and to cover replacement and repair of existing streets and other public improvements damaged in the development of the subdivision and must be approved by the city attorney as to form.*

*3. In the event the subdivider fails to complete all improvement work in accordance with the provisions of this ordinance, and the city has to complete same, or if the subdivider fails to reimburse the city for the cost of inspections, engineering and incidental expenses, and to cover cost of replacement and repair of existing street or other improvements damaged in the development of the subdivision; the city shall call on the bond for reimbursement, or shall appropriate from any cash deposit funds for reimbursements. The city shall release the remainder of the personal bond or cash deposit. If the bond or cash deposit is less than the cost and expense incurred by the city, the subdivider shall be liable to the city for the difference.*

**Findings:** The Public Works Director is working directly with the subdivider to meet the requirements of Sections 21 and 22 including requiring a development agreement and bond if necessary, before the recording of the plat.

*SECTION 23 - FILING OF FINAL PLAT*

*A subdivider shall, without delay, submit the plat for signatures of other public officials required*

*by law.*

*1. The applicant shall deliver the final plat to the County Surveyor for review and recording according to the requirements of ORS 92.100. Approval of the plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained.*

*2. The subdivision is considered complete after the final plat is recorded by the County clerk.*

*3. The County Surveyor shall furnish the city with a copy of the recorded plat.*

**Findings:** Upon approval, and upon the Public Works Directors decision the requirements for public facility, applicant will complete.

### CONCLUSIONS AND DETERMINATION

The Final Subdivision Plat of lots 16-29 for The Highlands submitted by the applicant should be APPROVED, subject to all conditions being met and maintained and subject to the following additional conditions:

1. The Planning Commission Chair will not sign the plat until advised by the Public Works Director that all provisions for public improvements have been met including entering into an agreement and bond if those improvements are not completed by the time of the recording of the plat.

2. Tentative approval of The Highlands (Pacific Dunes # 8), a 29-lot subdivision was made July 15, 2019. Applicant has 4 years from that date in which to complete entire project, Phase 1, 16 lots must be developed in the first two years. Phase 2, final 13 lots must be completed within two years of the completion of phase 1 but no later than July 2023